



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8365

[212.LLAZA01000.L1220000.DD0000]

Notice of Proposed Supplementary Rule for Public Lands at Virgin River Canyon Recreation Area in Mohave County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Supplementary Rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to establish a supplementary rule reinstating a 14-day camping limit at the Virgin River Canyon Recreation Area within the Arizona Strip Field Office, Arizona Strip District, Mohave County, Arizona. The rule is needed to protect public health and safety, reduce user conflicts within the designated recreation area, and protect the area's natural resources.

DATES: Interested parties may submit comments to the BLM at one of the addresses below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments concerning this notice should be addressed to the Bureau of Land Management, Attention: Amanda Sparks, BLM Arizona Strip Field Office, 345 East Riverside Drive, St George, AZ 84790, or email:

blm_az_asdo_comments@blm.gov.

FOR FURTHER INFORMATION CONTACT: Amanda Sparks, Assistant Field Manager, Arizona Strip Field Office, at 435-688-3271 or by email at BLM_AZ_ASDO_Comments@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual. The FRS is available 24 hours a day, seven days a week, to leave a message or

question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background Information

The BLM is proposing this supplementary rule under the authority of 43 Code of Federal Regulations (CFR) 8365.1–6, which allows BLM State Directors to establish supplementary rules for the protection of persons, property, and public lands and resources. This provision allows the BLM to issue rules of less than national effect by publishing the rule in the *Federal Register*, without codifying it in the CFR. This proposed supplementary rule applies to public lands managed by the Arizona Strip Field Office. You may contact the Arizona Strip Field Office (see **ADDRESSES**) for maps of the management area and boundary or to review the notice.

II. Public Comment Procedures

Please submit your written comments on issues related to this proposed rule to Amanda Sparks at one of the addresses shown above (see **ADDRESSES**). Comments on the proposed rule should be specific, confined to issues pertinent to the rule, and explain the reason for any recommended change. The BLM is not obligated to consider, or include in the Administrative Record for the rule, comments delivered to an address other than those listed above (see **ADDRESSES**) or comments that the BLM receives after the close of the comment period (see **DATES**), unless they are postmarked or electronically dated before the deadline.

Comments, including your name and address, will be available for public review upon request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

III. Discussion of Proposed Supplementary Rule

On March 31, 1994, the BLM Arizona State Office established supplementary rules for the Virgin River Canyon Recreation Area (59 FR 15214). The 1994 camping and occupancy rule exempted the Virgin River Canyon Recreation Area from the Arizona Strip District's 14-day camping limit that prohibits camping longer than 14 consecutive days within a 28-day period and requires campers to move at least 30 air miles from a previously occupied camping location. The 1994 supplementary rule therefore allowed for unlimited overnight stays within the Virgin River Canyon Recreation Area.

The proposed supplementary rule would revise the 1994 rule by reinstating the 14 consecutive day camping limit within a 28-day period on public land within the Virgin River Canyon Recreation Area, making it consistent with all other public lands within the Arizona Strip Field Office.

No other changes to the 1994 supplementary rules are proposed and they will continue to be enforced as described in the 1994 notice. The reinstatement of a camping limit would help the BLM maintain public access for recreational purposes, reduce conflicts among visitors, and preserve public health and safety.

This action is necessary because an increasing number of users of the Virgin River Canyon Recreation Area have established long-term residency under the pretext of recreational camping. Public concern about the effects of this long-term occupancy requires the BLM to address this issue. The proliferation of residential use interferes with legitimate recreational use of public lands and creates other health and safety concerns including hygiene and sanitation issues (i.e., no access to showers or waste dump stations; accumulation of miscellaneous equipment and housewares and the occasional long-term presence of dogs and their associated waste). In addition, this action would

reduce damages to natural resources that occur from trash dumping, accumulation or abandonment of equipment or vehicles, loss of vegetation, and contamination of nearby waters.

The proposed supplementary rule is consistent with the Arizona Strip Field Office Resource Management Plan (RMP), approved by the BLM (January 29, 2008). The BLM analyzed the proposed change in an environmental assessment (EA) (DOI-BLM-AZ-A010-2018-0030-EA) and issued a Finding of No Significant Impact (FONSI) and a Decision Record on February 6, 2019.

The proposed supplementary rule applies to public lands at the Virgin River Canyon Recreation Area within sections 14 & 15 of Township 41 North, Range 14 West of the Gila and Salt River Meridian. The EA was prepared to disclose and analyze potential impacts (positive or negative) associated with changing the 1994 supplementary rules by reinstating a 14-day stay limit within the recreation area campground. The BLM Arizona Strip Field Office conducted an 18-day public comment period during the preparation of the EA and received minimal public interest regarding reinstatement of the 14-day stay limit. The concerns that were raised by the public and agency partners focused on how long-term occupancy detracted from the quality and safety of recreation at this popular recreation area near the communities of St. George, Utah and Mesquite, Nevada.

Efforts to contain the problems associated with long-term occupancy without imposing a 14-day stay limit have proven insufficient, and concerns with public health and safety have intensified. The BLM is proposing this rule to: (1) provide more opportunities for the recreating public to utilize the campground facilities and access the surrounding area; (2) have consistent camping limitations across the Arizona Strip Field Office; (3) manage the site for recreational purposes while preserving the health and safety of visitors; and (4) enable law enforcement personnel to cite persons for unlawful camping and use of public land for residential purposes, thereby increasing campsite availability to the

recreating public. This notice, with detailed maps, will be available at the Arizona Strip Field Office for review.

The BLM invites public comment on this proposed supplementary rule until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The BLM will publish a final rule in the *Federal Register* that responds to any substantive comments received and explains how significant issues raised by those comments were resolved.

IV. Procedural Matters

Executive Order 12866 and 13563, Regulatory Planning and Review

This proposed supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866 or 13563. The rule would not have an effect of \$100 million or more on the economy. This rule would establish a duration for camping stays and would not adversely affect, in a material way, the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities. This rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor does the rule raise novel legal or policy issues. This rule would enable law enforcement personnel to efficiently track occupancy and enforce regulations pertaining to unlawful occupancy in a manner consistent with current Arizona State and county laws, where appropriate on public lands.

Clarity of the Supplementary Rule

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make the proposed

supplementary rule easier to understand, including answers to questions such as the following:

1. Are the requirements in this proposed supplementary rule clearly stated?
2. Does this proposed supplementary rule contain technical language or jargon that interferes with its clarity?
3. Does the format of this proposed supplementary rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would this proposed supplementary rule be easier to understand if it was divided into more (but shorter) sections?
5. Is the description of this proposed supplementary rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rule? How could this description be more helpful in making the proposed supplementary rule easier to understand?

Please send any comments you have on the clarity of the rule to one of the addresses specified in the **ADDRESSES** section.

National Environmental Policy Act

The BLM prepared an EA and found that this proposed supplementary rule does not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The BLM completed the EA to analyze the change in the stay limit in the Virgin River Canyon Recreation Area. The Decision Record for this EA was signed on February 6, 2019. The BLM has placed the EA and the FONSI on file in the BLM Administrative Record at the Arizona Strip Field Office address specified in the **ADDRESSES** section.

Regulatory Flexibility Act (RFA)

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601, *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This proposed supplementary rule does not pertain specifically to commercial or governmental entities of any size, but contains a rule to limit the duration of overnight camping on public lands within the Virgin River Canyon Recreation Area on the Arizona Strip Field Office. Therefore, the BLM has determined, under the RFA, that this proposed supplementary rule does not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed supplementary rule does not constitute “major rules” as defined at 5 U.S.C. 804(2). This proposed supplementary rule would establish a 14-day stay limit on overnight camping during a 28-day period and within 30 air miles on lands within the Virgin River Canyon Recreation Area. The limitation is necessary to: (1) Provide more opportunities for the recreating public to utilize the campground facilities and access the surrounding area; (2) Have consistent camping limitations across the Arizona Strip Field Office; (3) Manage the site for recreational purposes while preserving the health and safety of visitors; and (4) Enable law enforcement personnel to cite persons for unlawful camping and use of public land for residential purposes. This proposed supplementary rule would have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

This proposed supplementary rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than \$100 million per year, nor does the proposed supplementary rule have a significant or unique effect on state, local, or tribal governments or the private sector. The proposed supplementary rule does not

require anything of state, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This proposed supplementary rule does not represent a Government action capable of interfering with constitutionally protected property rights. The proposed supplementary rule does not address property rights in any form and does not cause the impairment of anyone's property rights. Therefore, the BLM has determined that this proposed supplementary rule does not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

This proposed supplementary rule would not have a substantial, direct effect on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. This proposed supplementary rule applies in only one state, Arizona, and does not address jurisdictional issues involving the Arizona State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed supplementary rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this proposed supplementary rule would not unduly burden the judicial system and that the rule meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found this proposed supplementary rule does not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs. Since this proposed supplementary rule does not change BLM policy and does not involve Indian reservation lands or resources, the BLM has determined that the government-to-government relationships remain unaffected. This proposed supplementary rule would only prohibit camping longer than 14 days in any 28-day period and within 30 air miles of the Virgin River Canyon Recreation Area on public lands managed by the BLM Arizona Strip Field Office.

Executive Order 13352, Facilitation of Cooperative Conservation

Under Executive Order 13352, the Arizona State Office of the BLM has determined that this proposed supplementary rule would not impede the facilitation of cooperative conservation. This proposed supplementary rule would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodate local participation in the Federal decision-making process; and provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

In developing this proposed supplementary rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed supplementary rule does not constitute a “significant energy action,” as defined in Executive Order 13211. This proposed supplementary rule would not have an

adverse effect on energy supplies, production, or consumption. The rule only addresses unauthorized occupancy on public lands and has no connection with energy policy.

Paperwork Reduction Act

This proposed supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Notice of Proposed Supplementary Rule:

Author

The principal author of this proposed supplementary rule is Jon Jasper, Outdoor Recreation Planner, Arizona Strip Field Office, Bureau of Land Management.

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1–6 and 43 U.S.C. 1740, the Arizona State Director proposes to establish the following supplementary rule for public lands managed by the BLM in Mohave County, Arizona, subject to the Arizona Strip Field Office Resource Management Plan, to read as follows:

Definitions

Camp means erecting a tent or shelter of natural or synthetic material; preparing a sleeping bag or other bedding material; parking a motor vehicle, motor home, or trailer, or mooring a vessel for the apparent purpose of overnight occupancy.

Prohibited Acts

Unless otherwise authorized, the BLM will enforce the following rule on public lands within the Virgin River Canyon Recreation Area, within the Arizona Strip Field Office, Arizona Strip District, Arizona;

Camping and Occupancy

1. You must not remain or camp within the Virgin River Canyon Recreation Area for more than 14 consecutive days in a 28-day period.

2. After the 14th consecutive day, campers must move beyond a 30-mile radius from the boundary of the Virgin River Canyon Recreation Area.

Exemptions

The following persons are exempt from this rule: Any Federal, State, local, and/or military employee acting within the scope of their official duties; members of any organized rescue or firefighting force in performance of an official duty; and any person authorized, in writing, by the BLM authorized officer.

Penalties

Any person who violates this rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 8365.1-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Arizona law.

Raymond Suazo

Bureau of Land Management, State Director, Arizona.

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